

May 24, 1999

Ms. Susan Cory General Counsel Texas Workers' Compensation Commission Southfield Building, MS 4D 4000 South IH-35 Austin, Texas 78704-7491

OR99-1440

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124933.

The Texas Workers' Compensation Commission (the "commission") received a request for the following information:

- 1. The outcome of the investigative file #12736 created and maintained by the TWCC Office of Investigations, beginning May 29, 1992 submitted by the requestor;
- 2. Copies of the requestor's complaints to the Texas Department of Insurance; and
- 3. Responses of CNA Insurance Company, Transportation Insurance Company, and Automatic Data Processing, Inc.

You state that the commission has provided the requestor with copies of two letters that are responsive to item 1 of the request. You inform us that to the extent that the remaining requested information exists, the information is maintained in an investigation file of the Division of Compliance and Practices (the "division"). You contend that the investigation file is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You assert that the investigation file is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 402.092 of the Labor Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be

confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information deemed confidential by other statutes. Section 402.092(a) of the Labor Code provides:

- (a) Information maintained in the investigation files of the commission is confidential and may not be disclosed except:
 - (1) in a criminal proceeding;
 - (2) in a hearing conducted by the commission;
 - (3) on a judicial determination of good cause; or
 - (4) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of the laws of this or another state or of the United States.

Pursuant to chapter 414 of the Labor Code, the division monitors the conduct of persons subject to the Texas Workers' Compensation Act for compliance with statutes and rules relating to workers' compensation. The investigation file concerns a possible violation of chapter 415 of the Labor Code. See Labor Code § 415.008 (fraudulently obtaining or denying benefits is an administrative violation). We agree that the investigation file is confidential under section 402.092. Therefore, the commission must withhold the investigation file from disclosure pursuant to section 552.101.

Because we are able to resolve this matter under section 552.101, we do not address your other arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

Karen E. Hattaway

Assistant Attorney General Open Records Division

KEH/ch

Ms. Susan Cory - Page 3

Ref: ID# 124933

encl. Submitted documents

cc: Mr. Patrick Akinwamide

10103 Lansdale, #442 Houston, Texas 77036

(w/o enclosures)